

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES SCOTT ERICKSON,

Defendant-Appellant.

UNPUBLISHED

April 27, 1999

No. 204815

Clinton Circuit Court

LC No. 94-005702 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals by right his guilty plea based conviction for breaking and entering. MCL 750.10; MSA 28.10. Defendant was sentenced to eight to fifteen years' imprisonment as a habitual offender, second felony offense. MCL 769.10; MSA 28.1082. We affirm.

Defendant asserts that he was sentenced on the erroneous presumption that he committed the crime while armed, where in fact he only obtained the weapon as part of the property stolen in the breaking and entering. This objection was raised at sentencing, and the trial court understood how the weapon was acquired. There is no showing that the sentence was based on improperly scored guidelines or any erroneous information. *People v Mitchell*, 454 Mich 145, 177; 560 NW2d 600 (1997).

Defendant asserts that he was not allowed to make any statements for the presentence report, contrary to MCR 6.425(A)(8). The probation officer relied on defendant's statements in a previous presentence report, and apparently did not question defendant directly. However, defendant failed to object to this procedure, and he has waived this issue on appeal. MCR 6.429(C). Any error is harmless where defendant took advantage of the opportunity for allocution, and made a statement directly to the court.

Finally, there is no showing that the sentence is disproportionate. Defendant has an extensive criminal record, and was caught in the middle of a crime spree. His habitual offender sentence was reasonably tailored to the offense and the offender, and did not constitute an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320; 562 NW2d 460 (1997).

Affirmed.

/s/ Hilda R. Gage
/s/ Roman S. Gibbs
/s/ Joel P. Hoekstra